

ORDINANCE NO. 34

SERIES 2020

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING THE CRESTED BUTTE MUNICIPAL CODE SECTION 4-2-70(3), TO PROVIDE FOR A TOWN SALES TAX EXEMPTION FOR "PRESCRIPTION DRUGS FOR HUMANS"

WHEREAS, the Town of Crested Butte, Colorado ("**Town**") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and public under and by virtue of the Colorado Constitution and laws of the State of Colorado; and,

WHEREAS, under Section 1-3-70 of the Town of Crested Butte Municipal Code ("Code"), the Town shall amend the Code by ordinance; and,

WHEREAS, Section 4-2-70(3) of the Code expressly provides for a sales tax exemption for numerous products, including "prescription drugs for animals," but does not expressly provide for a similar sales tax exemption for "prescription drugs for humans"; and,

WHEREAS, Section 4-2-30 of the Code defines "prescription drugs for humans" as "mean[ing] a drug which, prior to being dispensed or delivered, is required by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label"; and,

WHEREAS, Section 39-26-717(2)(a) of the Colorado Revised Statutes contains a sales tax exemption for "all sales of prescription drugs dispensed in accordance with a prescription by a [medical] practitioner or furnished by a [medical] practitioner as part of professions services provided to a patient or client"; and

WHEREAS, the Town of Crested Butte seeks to maintain sales tax exemptions consistent with the statutes of the State of Colorado's Office and the Town Code; and,

WHEREAS, the Town Council finds that the amendments set forth below are in the best interests of the health, safety, and general welfare of the Town and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Amending Chapter 4, Article 2, Title 70(3) – Adoption

Section 4-2-70(3) shall be amended to read as follows:

"The tax levied by Section 4-2-40 above shall not apply to the following: [. . .]

(3) The sale and purchase of medical supplies, prescription drugs for humans, prescription drugs for animals, and therapeutic devices. [. . .]

Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision thereof that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ, AND SET FOR PUBLIC HEARING THIS 21ST DAY OF DECEMBER, 2020.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING AND PUBLIC HEARING THIS FOURTH DAY OF JANUARY, 2021

TOWN OF CRESTED BUTTE, COLORADO

By: _____

James A. Schmidt, Town Mayor

ATTEST: _____

Lynelle Stanford, Town Clerk

